

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
STAND ENERGY CORPORATION FOR
CERTIFICATION AS A COMPETITIVE
RETAIL NATURAL GAS SUPPLIER.

CASE NO. 02-2549-GA-CRS

ENTRY

Entered in the Journal on November 22, 2016

{¶ 1} On October 24, 2016, Stand Energy Corporation (Stand) filed a motion to extend the protective order covering the financial information originally filed under seal in this docket on November 10, 2010, and November 24, 2010, as Exhibits C-3 (financial statements), C-4 (financial arrangements), and C-5 (financial forecast) (collectively, 2010 Financial Exhibits), which were part of Stand's supplemental confidential documents to the 2010 renewal of its competitive retail natural gas service (CRNGS) supplier certification.

{¶ 2} Under Ohio Adm.Code 4901:1-27-08, which became effective December 1, 2014, financial statements, financial arrangements, and forecasted financial statements filed under seal are automatically afforded protective treatment for a period of six years from the date of the certificate issuance. In Stand's case, its current protective order covering the 2010 Financial Exhibits is due to expire on December 31, 2016. *See In re Comm. Review of its Rules for Competitive Retail Natural Gas Serv.*, Case No. 12-925-GA-ORD, et al., Entry (Oct. 15, 2014). Stand now seeks to extend the six-year period of protective treatment for the 2010 Financial Exhibits beyond that date.

{¶ 3} In support of its motion for an extension of protective treatment, Stand asserts that the information in the confidential documents for which protective treatment is sought is competitively sensitive and proprietary business and financial information comprising trade secrets. Furthermore, Stand argues that granting protective treatment to these documents is not inconsistent with the purposes of R.C. Title 49. Stand explains that public disclosure of these documents would jeopardize Stand's business position in

negotiations with other parties and its ability to compete. Stand states that competitors could use the confidential documents to estimate Stand's gross profit margin, return on investment, and return on owner's equity and that these financial ratios provide information about Stand's liquidity, profitability, debt, operating performance, cash flow, and investment valuation. Further, Stand states that this information might allow competitors to make strategic decisions, including whether to enter or exit the markets in the geographic regions in which Stand operates. Stand claims that the confidential documents derive independent economic value from not being generally known to, and not being readily ascertainable by proper means, to other persons. Stand also notes that it is a privately held company and, thus, would be especially vulnerable if protective treatment were not granted.

{¶ 4} The attorney examiner has examined the information covered by Stand's motion for extension of the protective order covering the 2010 Financial Exhibits, as well as the assertions set forth in the supportive memorandum. Applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to R.C. 1333.61(D), as well as the six-factor test set forth by the Ohio Supreme Court,¹ the attorney examiner finds that the information contained in the 2010 Financial Exhibits no longer constitutes trade secret information.

{¶ 5} The information detailed in the 2010 Financial Exhibits relates to Stand's financial performance in 2007-2009 (Exhibit C-3) and its financial condition in 2010 (Exhibit C-4), along with forecasts of expected results in 2010 and 2011 (Exhibit C-5). The attorney examiner concludes that, because the information in these exhibits is outdated, it can no longer be considered sensitive. Consequently, the attorney examiner finds that Stand's motion for extended protective treatment of the 2010 Financial Exhibits should be denied.

{¶ 6} The attorney examiner notes that, previously, on September 4, 2009, Stand requested extended protective treatment for confidential financial documents filed in

¹ See *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St.3d 513, 524-525, 687 N.E.2d 661 (1997).

connection with Stand's original application for certification in 2002. Further, that request for extended protective treatment was denied by Entry dated October 2, 2009, as the financial documents relating to Stand's 2002 application for certification were outdated and could no longer be considered trade secret information. Here, in Stand's present request for extended protective treatment of past confidential exhibits, the same rationale for denying Stand's motion for extended protective treatment applies. The information contained in the 2010 Financial Exhibits cannot be considered a trade secret because of its age, and thus, in line with Commission policy not to protect historical information, it cannot be accorded continued protective treatment.

{¶ 7} The attorney examiner also notes that Commission practice has been not to extend protective treatment for CRNGS certification information beyond the initial six-year period that is granted when a certification application is filed. *See In re Comm. Review of its Rules for Competitive Retail Natural Gas Serv.*, Case No. 12-925-GA-ORD, Entry on Rehearing (Feb. 26, 2014) at 14.

It is, therefore,

{¶ 8} ORDERED, That Stand's October 24, 2016 motion to extend the protective order covering its 2010 Financial Exhibits be denied. It is, further,

{¶ 9} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Kerry K. Sheets

By: Kerry K. Sheets
Attorney Examiner

jrj/vrm

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11/22/2016 4:25:41 PM

in

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Summary: Attorney Examiner Entry denying Stand's October 24, 2016 motion to extend the protective order covering its 2010 Financial Exhibits; electronically filed by Vesta R Miller on behalf of Kerry K. Sheets, Attorney Examiner, Public Utilities Commission of Ohio